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EXAMINER

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

Application Number: 10/028,086
Filing Date: December 21, 2001
Appellant(s): DENMAN ET AL.

JAN 11 2008

Technology Center 2100

Brandi W. Sarfatis (37,713)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 23, 2007 appealing from the Office action mailed May 9, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. Claims 1 and 26, provisionally rejected under 35. U.S.C. 101 as claiming the same invention as that of claims 1 and 37, of copending Application No. 10/137,551.

GROUND OF REJECTION NOT ON REVIEW

The following grounds of rejection have not been withdrawn by the examiner, but they are not under review on appeal because they have not been presented for review in the appellant's brief. Claim 26 stands provisionally rejected on the ground of nonstatutory obviousness type double patenting as being unpatentable over claim 37 of copending Application No. 10/137,551..

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,477,150

MAGGENTI

11-2002

Newton, H. "Newton's Telecom Dictionary", 15th edition, (1999), pg. 289

Roach, A. "Event Notification in SIP" IETF Internet Draft, March 2000, pp. 1-

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Double Patenting

In response to the amendments made to claims 1 and 37 in copending Application No. 10/137,551 in communications filed September 27, 2007, examiner has withdrawn the provisional rejection of claims 1 and 26 under 35 U.S.C. 101.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 26 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 37 of copending Application No.

10/137,551. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claims contain substantially similar claim limitations.

With regards to claim 26, each claim limitation of the instant application is anticipated by the claim limitations recited in claim 37 of the copending application.

Further with regards to claim 26, although the instant application substantially discloses the claimed invention recited in claim 37 of the copending application, the instant application does not specifically recite within the limitations performing the process steps of "transmitting a SIP SUBSCRIBE...", "redirecting the SIP SUBSCRIBE..." "receiving an acknowledge message..." "transmitting calling party information..." and "communicating speech packets..." **"while** the PTT functionality is engaged on the mobile device". Nevertheless, it would have been obvious to one of ordinary skill in the art at the time of the present invention that performing the aforementioned process steps while the PTT functionality is engaged on the mobile device is an obvious variation of performing the process steps upon "selecting a PTT function on the mobile device" as recited in the instant application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 5-16, 18, 19, 23, 35, are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Maggenti et al. (hereinafter Maggenti), U.S. Patent 6,477,150.

In considering claim 5, Maggenti teaches a method for user activation of push-to-talk (PTT) service in a wireless communication network, comprising: initiating a session with a PTT server (218) wherein a user joins a group, (col. 10, lines 46-55); registering a contact for the user for media transmissions to other users in the group, (col. 10, lines 46-55); wherein the contact for the user is the PTT server (col. 10, lines 46-55), the PTT Server functioning as an SIP call endpoint for the user, (col. 7, lines 39-46, also see Fig. 3).

In considering claim 6, Maggenti teaches the group being closed with pre-provisioned members, (col. 10, line 56- col. 11, line 6).

In considering claim 7, Maggenti teaches the group being open whereby any user can join, (col. 10, line 56- col. 11, line 6).

In considering claim 8, Maggenti teaches initiating a session including invoking a SIP INVITE process, (col. 11, lines 52-59).

In considering claim 9, Maggenti teaches a To header of the SIP INVITE including a group specific Uniform Resource Locator, (col. 25, lines 12-28).

In considering claim 10, Maggenti teaches registering a contact for the user (col. 10, lines 46-55). Maggenti also teaches operating over the SIP protocol, (col. 7, lines 39-57). Thus, it is inherent in the teachings of Maggenti that registering a contact for the user includes invoking a SIP REGISTER process, since SIP REGISTER is a conventional method.

In considering claim 11 , Maggenti teaches registering a contact for the user including registering a group specific Uniform Resource Locator, (col. 10, lines 46-55).

In considering claim 12, Maggenti teaches the PTT server functioning as a SIP user agent server (col. 11, line 60-col. 12, line 2), and as a multicast router (col. 22, lines 51 -58).

In considering claim 13, Maggenti teaches the contact for the user being a SIP URL for the group in the PTT server, (col. 26, lines 5-43).

In considering claim 14, Maggenti teaches initiating a session with the PTT server including the PTT server adding the IP address of the user's mobile device to a multicast group, (col. 10, lines 46-55).

In considering claims 15 and 35, Maggenti teaches a method for push-to-talk (PTT) group calls for users in a wireless communication network, comprising: receiving at a PTT server from a mobile device to request the group's speech token, (col. 6, lines 11-23); transmitting an acknowledge message to the mobile device from the PTT Server wherein the acknowledge message includes a speech token, (col. 6, lines 11-23); receiving by the PTT server, a half-duplex speech communication from the mobile device, (col. 20, lines 26-30); multicasting the half-duplex speech communication from the PTT server to other members of a group (col. 4, lines 49-59, col. 22, lines 51-58), wherein the multicasting includes use of network address and port translation by the PTT server, whereby the PTT server replaces a destination IP address of a port number of received speech packets with an IP address of a port number of each target user and unicasts modified packets to each target user, (col. 6, line 62-col. 7, line 7).; releasing the speech token, (col. 6, lines 11-23); and notifying the group members that the speech token is available, (col. 6, lines 11-23, col. 31, lines 38-48). Maggenti also teaches operating over the SIP protocol, (col. 7, lines 39-57). Thus, it is inherent in the teachings

of Maggenti that a SIP SUBSCRIBE is transmitted to the PTT server from the mobile device to request the group's speech token, since SIP SUBSCRIBE is a conventional method.

In considering claim 16, it is inherent in the teachings of Maggenti that multicasting includes use of a Class D Multicast address, (col. 4, lines 49-59, col. 22, lines 51-58).

In considering claim 18, Maggenti teaches authorizing priority members to preempt any other group member who has been granted the speech token, (col. 30, line 63-col. 31, line 9).

In considering claim 19, Maggenti teaches identifying the caller to target users, (col. 12, line 64-col. 13, line 11).

In considering claim 23, Maggenti teaches sending a releasing member the status of the token in the response to the releasing SUBSCRIBE request, (col. 31, lines 38-59).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 20-22, 24-34, 36, are rejected under 35 U.S.C. 103(a) as being unpatentable over Maggenti.

In considering claim 1, Maggenti teaches a wireless communication network including push-to-talk (PTT) functionality, comprising: a Session Initiation Protocol (SIP) Proxy Server (218), (col. 5, lines 38-55, Fig.'s 2 and 6); a SIP Registrar and Location Server (218) operable to store contact addresses of active mobile devices, (col. 7, lines 15-28, Fig.'s 2 and 6); a PTT Server (218) operable to function as a call endpoint for each of a plurality of mobile devices wherein the plurality of mobile devices are segmented into membership groups, the PTT Server further operable to multicast a communication from one member of the group to the other members of the group, (col. 4, line 49-col. 5, line 46, col. 22, lines 45-58, Fig.'s 2, 3 and 6); and an Internet Protocol (IP) network (214) connected to the SIP Proxy server, the SIP Registrar and Location Server, and the PTT Server, (col. 15, lines 28-37, Fig.'s 2 and 6).

Although the teachings of Maggenti disclose substantial features of the claimed invention, they fail to expressly disclose: the IP network interconnecting the SIP Proxy server, the SIP Registrar and Location Server, and the PTT Server.

Nevertheless, it was well known in the art to have different functionality of one server separated and provided in multiple servers interconnected by an IP network.

Maggenti exemplifies this where Maggenti teaches the SIP Proxy server, the SIP Registrar and Location Server, and the PTT Server optionally including a modem bank (224), or being interconnected to the modem bank via the IP network, (col. 7, lines 58-60, also see Fig. 2). Furthermore, having the SIP Proxy server, the SIP Registrar and Location Server, and the PTT Server interconnected by the IP network, or having them all located in one server as taught by Maggenti is a field of use limitation and not of patentable distinction.

Thus, it would have been obvious to one of ordinary skill in the art to modify the teachings of Maggenti to disclose the IP network interconnecting the SIP Proxy server, the SIP Registrar and Location Server, and the PTT Server. This would have simply been a designer's choice in implementing the system and method for providing group communication services as taught by Maggenti, (col. 7, lines 58-60, also see Fig. 2).

In considering claim 2, Maggenti teaches the PU server operates as a signaling endpoint and a back-to-back user agent, (col. 6, line 62 through col. 7, line 14, and col. 20, lines 49-57, Fig. 6).

In considering claim 3, Maggenti teaches a subscriber database operable to store subscriber data, (col. 7, lines 15-28, Fig. 6).

In considering claim 4, Maggenti teaches a radio access network operable to wirelessly link the plurality of mobile devices to the IP network, (col. 6, lines 24-47, Fig. 2).

In considering claim 20, although the teachings of Maggenti disclose substantial features of the claimed invention, they fail to expressly disclose: SIP INFO and NOTIFY messages being used to convey a calling party ID.

Nevertheless, INFO and NOTIFY messages are conventional SIP messages and were well known in the art at the time of the present invention for mid-call signaling information exchanging, and event notification after an explicit/implicit subscription, respectively.

Thus, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Maggenti to show SIP INFO and NOTIFY messages being used to convey a calling party ID. This would have advantageously provided a conventional means for identifying callers to target users, (Maggenti, col. 12, line 64-col. 13, line 11).

In considering claims 21 and 30, although the teachings of Maggenti disclose substantial features of the claimed invention, they fail to expressly disclose: sending a SIP INFO message indicating the speech token is available.

Nevertheless, INFO messages were well known in the art at the time of the present invention for mid-call signaling information exchanging.

Thus, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Maggenti to show sending a SIP INFO message indicating the speech token is available. This would have advantageously provided a conventional means for notifying group members that a speech token is available, (Maggenti, col. 6, lines 11-23, col. 31 , lines 38-48).

In considering claims 22 and 31, although the teachings of Maggenti disclose substantial features of the claimed invention, they fail to expressly disclose: sending a SIP NOTIFY message indicating the speech token is available.

Nevertheless, NOTIFY messages were well known in the art at the time of the present invention for event notification after an explicit/implicit subscription.

Thus, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Maggenti to show sending a SIP NOTIFY message indicating the speech token is available. This would have advantageously provided a conventional means for notifying group members that a speech token is available, (Maggenti, col. 6, lines 11-23, col. 31 , lines 38-48).

In considering claims 24 and 32, although the teachings of Maggenti disclose substantial features of the claimed invention, they fail to expressly disclose: notifying the group members that the speech token is available including multicasting a pre-stored tone from the PTT server.

Nevertheless, Maggenti teaches notifying the group members that the speech token is available, (col. 31 , lines 38-48), and notifying a requesting group member that a speech token has been granted by means of a pre-stored tone, (col. 6, lines 11-23).

Thus, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Maggenti to show notifying the group members that the speech token is available including multicasting a pre-stored tone from the PTT server. This would have advantageously allowed for group members to audibly determine whether the speech token was available, (Maggenti, col. 6, lines 11-23, col. 31 , lines 38-48).

In considering claim 25, although the teachings of Maggenti disclose substantial features of the claimed invention, they fail to expressly disclose: queuing the request for the speech token until the speech token is available.

Nevertheless, queuing was well known in the art at the time of the present invention. Also, Maggenti teaches denying a request for the speech token until the speech token is available, (col. 5, lines 26-37).

Thus, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Maggenti to show queuing the request for the speech token until the speech token is available, and processing the queued request to acquire the speech token when the speech token becomes available. This would have advantageously allowed for a user to receive the speech token when it becomes available by only pressing the PTT button once, (Maggenti, 01. 6, line 47-col. 7, line 7).

In considering claims 26 and 36, Maggenti teaches a method for PTT private calls for users in a wireless communications network, comprising: selecting a called party private identification for a private call by a calling party on a mobile device, (col. 20, lines 26-30); selecting a PTT function on the mobile device, (col. 20, lines 26-30); transmitting to request a speech token, (col. 6, lines 11-23); redirecting a request, (col. 25, lines 51-57); receiving an acknowledge message that includes a speech token, (col. 6, lines 11-23); communicating speech packets from the calling party to the called party in a half-duplex manner, (col. 20, lines 26-30); transmitting to release the speech token, (col. 6, lines 11-23); notifying the calling and called parties that the group's speech token is available, (col. 6, lines 11-23, col. 31, lines 38-48). Maggenti also teaches operating over the SIP protocol, (col. 7, lines 39-57). Thus, it is implicit in the teachings of Maggenti that a SIP SUBSCRIBE is transmitted to the PTT server from the mobile device to request the group's speech token, since SIP SUBSCRIBE is a conventional method.

Although the teachings of Maggenti disclose substantial features of the claimed invention, they fail to expressly disclose: redirecting a SIP SUBSCRIBE to the PTT server for purposes or removing the calling party and the called party from a multicast group.

Nevertheless, the teachings of Maggenti provide a means for redirecting a SIP SUBSCRIBE to the PTT server for purposes or removing the calling party and the called party from a multicast group, (col. 6, line 62-col. 7, line 7, col. 20, lines 26-30, col. 25, lines 51-57).

Thus, if not implicit, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Maggenti to show redirecting a SIP SUBSCRIBE to the PTT server for purposes or removing the calling party and the called party from a multicast group. This would have advantageously provided a means for supporting a private call between a calling party and a called party, (Maggenti, col. 20, lines 26-30).

In considering claim 27, although the teachings of Maggenti disclose substantial features of the claimed invention, they fail to expressly disclose: transmitting the calling party information using a SIP NOTIFY message.

Nevertheless, NOTIFY messages were well known in the art at the time of the present invention for event notification after an explicit/implicit subscription.

Thus, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Maggenti to show transmitting the calling party information using a SIP NOTIFY message. This would have advantageously provided a conventional means for transmitting calling party information from the PTT Server to the called party, (Maggenti, col. 12, line 64-col. 13, line 11)

In considering claim 28, although the teachings of Maggenti disclose substantial features of the claimed invention, they fail to expressly disclose: transmitting the calling party information using an INFO message.

Nevertheless, INFO messages were well known in the art at the time of the present invention for mid-call signaling information exchanging.

Thus, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Maggenti to show transmitting the calling party information using an INFO message. This would have advantageously provided a conventional means for transmitting calling party information from the PTT Server to the called party, (Maggenti, col. 12, line 64-col. 13, line 11).

In considering claim 29, the teachings of Maggenti provide a means for sending a response to the SIP SUBSCRIBE that requested releasing of the private-call speech, (col. 31, lines 38-59).

In considering claim 33, the teachings of Maggenti provide a means for reinstating the calling party and the called party as part of the group upon termination of the private call, (col. 4, lines 49-59, col. 20, lines 26-30).

In considering claim 34, the teachings of Maggenti provide a means for restoring the IP addresses of the parties' mobile device to the group's multicast group, (col. 6, line 62-col. 7, line 7, col. 4, lines 49-59, col. 20, lines 26-30, col. 25, lines 51-57).

(10) Response to Argument

With regards to independent claim 5, appellant's argue on pg. 5, section A 1., that Maggenti fails to disclose at least registering a contact for a user "for media transmissions to other users in the group" wherein the contact for the user "is the PTT

Server, the PTT Server **functioning as an SIP call endpoint for the user**" as recited in claim 5.

In response, as indicated in previous actions, examiner maintains Maggenti teaches registering a contact for a user "for media transmissions to other users in the group" wherein the contact for the user "is the PTT Server, the PTT Server functioning as an SIP call endpoint for the user" at least where Maggenti discloses a user (i.e. CD 202) registering with a PTT server (i.e. CM 218) to connect to net participants (col. 10, lines 46-55), and where Maggenti discloses the user may access the CM using the SIP protocol, (col. 7, lines 39-46). Appellant's further argue the claimed limitations are not taught by Maggenti because the CM 218 functions as a switch rather than an endpoint. As also indicated in previous actions, examiner acknowledges that Maggenti teaches the CM 218 functioning as a switch, nevertheless, the examiner also maintains that this is only one of many functions provided by the CM. As was well known in the art at the time of the present invention an endpoint may comprise a transmitter or receiver, or an originating or terminating device in a network. This is evidenced by the definition for "endpoint" in Newton's Telecom Dictionary (see def. for "endpoint" on pg. 289).

Examiner maintains the CM also functions as an endpoint since, when a user initiates a request to register with the CM to connect to net participants, the CM not only functions as a receiver in receiving the user request, the CM also functions as the terminating device for the user request since it is the CM that has to add the user "to a list of connected net participants", (col. 10, lines 46-55). Further, when reading in light of appellant's specification, nothing teaches away from the interpretation examiner has

given to appellant's claimed PTT server functioning as an SIP call endpoint. Instead, appellant's specification teaches the PTT server tracking active member participation in a group, and distributing received Real time Transport Protocol (RTP) voice packets to call participants, (see pg. 12, par. 0020). Maggenti discloses similar teachings for the CM, (see col. 8, lines 11-26, and col. 10, lines 46-55). Thus, even when reading in light of appellant's specification, examiner submits appellant's claimed invention fails to distinguish from the teachings of Maggenti.

With regards to independent claims 15 and 35, appellant's argue on pg. 6, section A 2., that Maggenti fails to disclose "multicasting the half-duplex speech communication from the PTT Server to other members of a group, wherein the multicasting includes use of network address and port translation by the PTT server, whereby the PTT server replaces a destination IP address of a port number of received speech packets with an IP address of a port number of each target user and unicasts modified packets to each target user" as recited in claim 15, as amended.

In response, as indicated in previous actions, examiner maintains Maggenti teaches "multicasting the half-duplex speech communication from the PTT Server to other members of a group, wherein the multicasting includes use of network address and port translation by the PTT server, whereby the PTT server replaces a destination IP address of a port number of received speech packets with an IP address of a port number of each target user and unicasts modified packets to each target user" at least where Maggenti discloses multicasting half-duplex speech communication from the PTT

server (i.e. CM) to other members of a group, whereby the CM duplicates information transmitted to the CM by a net member and then provides the information to the other net members by sending each duplicate (i.e. unicasting) to the other net members, (col. 6, line 62-col. 7, line 7). Examiner further maintains that although not recited identically as claimed by appellant, network address and port translation by the CM are at least inherent in the teachings of Maggenti. This is because network address and port translation are necessary for PTT communications to occur, (i.e. in order for the CM to unicast the information to the other net members, the CM has to replace a destination IP address of a port number of received speech packets from the net member with an IP address of a port number of each of the other net members, otherwise the other net members would never receive the speech packet). In the brief, appellant has not denied such teachings are inherent in Maggenti, and instead argues "for at least the reasons set forth above with reference to claim 5, the CM 218 does not function as the SIP call endpoint for the user; therefore, there is no need for Maggenti to provide network address and port translation in the manner recited in the subject limitation; therefore, such features are not "inherent" in the disclosure of Maggenti. In other words, because the CM 218 merely functions as a switch (see, e.g., Maggenti, column 2, lines 30-33), rather than an SIP call endpoint, for a user, it is anticipated that the recited translation would not be necessary." For reasons indicated above, examiner maintains the CM taught by Maggenti indeed does function as an endpoint, and therefore in addition to the reasons presented above with respect to claim 15, appellant's claimed invention fails to distinguish from the teachings of Maggenti.

With regards to dependent claims 6-14, 16, 18, 19, and 23, appellants argue on pg. 7, section A 3., that claims 6-14 depend from and further limit independent claim 5 and are therefore allowable for at least the reasons set forth above with respect to claim 5. Claims 16, 18, 19 and 23 depend from and further limit independent claim 15 and are therefore also allowable over Maggenti for at least the reasons set forth above with respect to the allowance of claim 15.

In response, examiner submits independent claims 5 and 15 fail to distinguish from the teachings of Maggenti for the reasons indicated above. Therefore, examiner maintains dependent claims 6-14, 16, 18, 19, and 23 fail to distinguish from the teachings of Maggenti for the reasons indicated above and for reasons presented in previous office actions.

With regards to independent claim 1, appellants argue on pg. 7, section B 1., that Maggenti fails to teach, suggest, or render obvious at least the following limitation:

a PTT Server operable to function as a call endpoint for each of a plurality of mobile devices wherein the plurality of mobile devices are segmented into membership groups, the PTT Server further operable to multicast a communication from one member of the group to the other members of the group;

In response, as indicated in previous actions, examiner maintains Maggenti teaches appellant's claimed limitation where Maggenti discloses a PTT server (i.e. CM 218) operable to function as a call endpoint for each of a plurality of mobile devices (i.e. 202, 204, 206, etc.) wherein the plurality of mobile devices are segmented into

membership groups (i.e. nets), the CM further operable to multicast communication from one member of the net to other members of the net, (col. 4, line 49-col. 5, line 46, also see col. 22, lines 45-58 and Fig.'s 2, 3, and 6). While appellant further argues none of the cited portions of Maggenti teach, or render obvious the CM operating as a "call endpoint" for each of a plurality of mobile devices, examiner respectfully disagrees with appellant, and maintains Maggenti does indeed teach the CM operating as a call endpoint for reasons previously indicated above.

With regards to independent claims 26 and 36, appellant's argue on pg. 8, section B 2., that Maggenti fails to teach, suggest, or render obvious at least "redirecting the SIP SUBSCRIBE to a PTT Server for purposes of removing the calling party and the called party from a multicast group," as recited in claim 26.

In response, as indicated in previous actions, examiner acknowledges Maggenti fails to expressly disclose redirecting the SIP SUBSCRIBE to a PTT Server for purposes of removing the calling party and the called party from a multicast group. Nevertheless, examiner maintains such teachings, if not implicit, would be an obvious modification to the teachings of Maggenti. As indicated in previous actions, Maggenti teaches the ability to redirect a request (i.e. SIP INVITE) to a PTT Server for purposes of joining or removing a calling party from a multicast group, (see col. 25, lines 12-15 and lines 51-57, also see col. 11, line 44-col. 12, line 2). Maggenti also recognizes that a calling party must be removed from a multicast group in order to establish a private call, (see col. 14, lines 32-42, also see col. 20, lines 26-30). Further, at the time of the

present invention, SIP SUBSCRIBE was a well known SIP method for a calling party to transmit a request to a server. This is evidenced in the IETF Internet Draft "Event Notification in SIP" submitted by appellant in the IDS filed September 27, 2005, (see pg. 3, section 2.1 and pg. 5, section 4.1.3). Thus, examiner maintains if not implicit in the teachings of Maggenti, one of ordinary skill would have found it obvious to modify the teaching of Maggenti, (i.e. by replacing the SIP INVITE request with the SIP SUBSCRIBE request) for the purpose of removing the calling party and the called part from a multicast group to support a private call between a calling party and a called party, (Maggenti, col. 14, lines 32-42, also see col. 20, lines 26-30).

With regards to dependent claims 6-14, 16, 18, 19, and 23, appellant's argue on pg. 9, section B 3., that claims 2-4 depend from and further limit independent claim 1 and are therefore allowable over Maggenti for at least the reasons set forth above with respect to claim 1. Claims 24-34 depend from and further limit independent claim 26 and are therefore also deemed allowable over Maggenti for at least the reasons set forth above with respect to the allowance of claim 26.

In response, examiner submits independent claims 1 and 26 fail to distinguish from the teachings of Maggenti for the reasons indicated above. Therefore, examiner maintains dependent claims 2-4, 6-14, 16, 18, 19, and 23-34 fail to distinguish from the teachings of Maggenti for the reasons indicated above and for reasons presented in previous office actions.

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No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

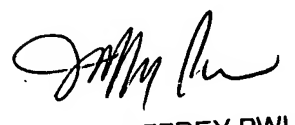
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